

**In the Court of the Judge, 2<sup>nd</sup> Special Court, Calcutta**  
**Special Case No.02 of 2024 (Computer Registration No.02 of 2024)**  
**CNR No. WBCS01-000119-2024**  
**Present :- Ananta Kumar Singha Mahapatra (J.O Code-WB00902).**

**Order No.44**  
**10.06.2025**

Today is fixed for hearing of the application dated 15.05.2025 filed by the prosecution under Section 311 of the CrPC.

Accused Kanchan Kumar is produced from judicial custody through video conference.

Accused Raj Kumar Roy is present by filing hazira.

The learned public prosecutor in charge is also present.

The defence filed a written objection against the said application.

Heard both sides. Perused the said application, the written objection and the case record. Considered.

By filing the said application the prosecution has prayed for examining the handwriting expert Sri Debasis Dey of QDEB, CID, West Bengal and Vandana Singh and Chhaya Debi, both of whom are the witnesses of the seizure dated 22.09.2023. The learned public prosecutor submitted that at the time of filing of the charge sheet the report of the handwriting expert was not received and as such he has not been shown as a witness in the charge sheet. He further submitted that the investigating officer inadvertently omitted to mention the name of Vandana Singh and Chhaya Debi, both of whom are the seizure witnesses, as witnesses in the charge sheet. The learned public prosecutor further submitted that the evidence of these persons are required for fair trial and in the absence of the evidence of these witnesses the prosecution shall be highly prejudiced.

The defence has contested the said application by filing a written objection. It is the case of the defence that the said application has been filed to fill up the lacunae in the case of the prosecution. That introducing the report of the hand writing expert at this stage of the trial would amount to granting the prosecution undue advantage. The learned advocate for the defence submitted that the prosecution was having ample opportunity to place on record the report of the hand writing expert at earlier stage. That there was no reason for the investigating officer to omit the name of Vandana Singh and Chhaya Debi as witnesses in the charge sheet. The learned advocate for the defence further submitted that the

power under Section 311 of the CrPC is not to be exercised in a manner that causes prejudice to the accused or grants an undue advantage to the prosecution. He, thus, prayed for rejection of the said application.

It is settled law that the object of Section 311 of the CrPC is to prevent failure of justice on account of mistake of either party to bring on record valuable evidence or leaving an ambiguity in the statement of the witness. A court must discharge its statutory functions according to law in dispensing justice because it is the duty of a court not only to do justice but also to ensure that justice is being done.

On going through the case record, I find that the persons sought to be examined are the seizure witnesses and the hand writing expert. Non mentioning of the names of the seizure witnesses as witnesses in the charge sheet is definitely a lacunae on the part of the investigating officer, for which the case of the prosecution should not suffer. Moreover, no prejudice will be caused to the accused persons by examining the seizure witnesses.

Regarding the evidence of the handwriting expert, I find that the expert report was submitted on 29.01.2024. A copy of the same was given to the accused persons on 05.02.2024 (as it appears from the signature made by them on the forwarding report made by the investigating officer in respect of the expert report). In the instant case, the charge sheet was submitted before the learned Additional Chief Metropolitan Magistrate, Calcutta on 28.11.2023. So, there was no scope for the investigating officer to mention the name of the hand writing expert in the charge sheet. Having regard to the nature of the case, the evidence of the hand writing expert is of paramount importance for fair trial. The said report is a part of the case record prior to framing of the charge. If the expert is not examined the prosecution will suffer irreparable loss and injury.

Considering all aspects, I am of the opinion that the evidence of Sri Debasis Dey of QDEB, CID, West Bengal, Vandana Singh and Chhaya Debi are required for fair trial.

As such, the application dated 15.05.2025 filed by the prosecution under Section 311 of the CrPC **is allowed on contest.**

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To 21.07.2025 for evidence of Vandana Singh and Chhaya Debi.

22.07.2025 for evidence of Debasis Dey of QDEB, CID.

Issue summons accordingly. To date for production of accused Kanchan Kumar and appearance of accused Raj Kumar Roy.

Dictated and corrected by me

**Judge, 2nd Special Court,  
Calcutta  
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